

containing a guaranty that the product was not adulterated or misbranded in violation of the Food and Drugs Act; that the article was adulterated, and that the defendant company was amenable to prosecution and the penalties which, but for said guaranty, would have attached to the shippers. The article was labeled in part, variously: "Uncle Sam Brand Pink Alaska Salmon Packed by Kodiak Fisheries Co., Kodiak, Alaska Office-Seattle, Wash."; "Criterion Alaska Salmon * * * Kodiak Fisheries Co., KFC Kodiak, Alaska"; "I. G. A. Brand Pink Salmon * * * Packed for Independent Grocers Alliance Distributing Co., Chicago, Illinois."

The information charged that the article was adulterated in that it consisted in part of a decomposed animal substance.

On May 23, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

21131. Alleged adulteration and misbranding of oysters. U. S. v. J. Waldron Bayles and Samuel A. Bayles (Oyster Bay Oyster Co.). Tried to a jury. Information ordered dismissed; defendants acquitted by direction of the court. (F. & D. no. 28040. I. S. nos. 2094, 2095, 11024.)

On December 14, 1932, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against J. Waldron Bayles and Samuel A. Bayles, copartners, trading as the Oyster Bay Oyster Co., Oyster Bay, N. Y., charging shipment by said defendants in violation of the Food and Drugs Act, on or about December 10 and December 15, 1930, from the State of New York into the State of Washington, of quantities of oysters which were alleged to be adulterated and misbranded.

The information charged that the article was adulterated in that a substance, excessive water, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength, and had been substituted in part for oysters, which the article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the article, oyster solids, had been in part abstracted.

It was further alleged in the information that the article was misbranded in that the statement "Oysters", borne on the tag attached to the cases was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On April 12, 1933, the defendants having each entered a plea of not guilty, the case came on for trial before a jury. On motion of counsel for the defendants counts 2 and 4 charging misbranding of the product were dismissed. After hearing the evidence the court ordered the remaining counts dismissed and directed that the defendants be acquitted.

M. L. WILSON, *Acting Secretary of Agriculture.*

21132. Misbranding of paprika and black pepper. U. S. v. 12 Cartons of Paprika and 17 Cases and 13¾ Cases of Black Pepper. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 28874, 28955. Sample nos. 13251-A, 13254-A, 13362-A.)

These cases involved the interstate shipment of quantities of paprika and black pepper, sample packages of which were found to contain less than the declared weight.

On September 7 and September 26, 1932, the United States attorney for the Middle District of Alabama, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 12 cartons of paprika and 30¾ cases of black pepper at Montgomery, Ala., alleging that the articles had been shipped in interstate commerce, in various consignments, on or about November 30, 1931, April 4, and August 5, 1932, by the Hudson Tea & Spice Co., Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The paprika was labeled: (Carton) "Hudson Brand HTO Pure Paprika * * * 4 Oz. Net Weight." The pepper was labeled: (Package) "Alabama Maid Brand Black Pepper * * * 5/8 Oz. Net Weight."

It was alleged in the libels that the articles were misbranded in that the statements on the respective labels, "4 Oz. Net Weight" and "5/8 Oz. Net

Weight", were false and misleading and deceived and misled the purchaser, and for the further reason that the articles were in package form and the quantities of the contents were not plainly and conspicuously marked on the outside of the packages, since the quantities stated were incorrect.

On June 30, 1933, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

21133. Adulteration and misbranding of canned frozen whole eggs and egg yolk. U. S. v. Frigid Food Products, Inc. Plea of guilty. Fine, \$100 and costs. (F. & D. no. 28038. I. S. nos. 28328, 28334.)

This action was based on interstate shipments of canned frozen eggs and frozen egg yolk, which contained added undeclared sugar.

On October 6, 1932, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Frigid Food Products, Inc., a corporation trading at Omaha, Nebr., alleging shipment by said company in violation of the Food and Drugs Act, in part on or about January 5, 1931, and in part on or about February 19, 1931, from the State of Nebraska into the State of Pennsylvania, of quantities of canned frozen eggs and egg yolk that were adulterated and misbranded. The article was labeled in part: (Cans) "Frigidegs Frozen Strictly Fresh * * * Packed Exclusively by Frigid Food Products, Inc." A portion were further labeled "Gold yolks."

It was alleged in the information that the article was adulterated in that added sugar had been substituted in part for frozen eggs, which the article purported to be.

Misbranding was alleged for the reason that the statement, "Frigidegs Frozen", borne on the label, was false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the statement represented that the article consisted wholly of frozen eggs, whereas it consisted in part of undeclared added sugar. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, Frigidegs.

On May 15, 1933, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$100 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

21134. Adulteration and misbranding of canned cherries. U. S. v. 6 $\frac{2}{3}$ Cases of Canned Cherries. Default decree of condemnation and forfeiture. (F. & D. no. 28007. I. S. no. 39545. S. no. 6062.)

This case involved an interstate shipment of a product, represented to be canned pitted cherries, which was found to contain excessive pits.

On April 16, 1932, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6 $\frac{2}{3}$ cases of canned cherries at Alderson, W. Va., alleging that the article had been shipped in interstate commerce on or about February 15, 1932, by the Webster Canning & Preserving Co., from Webster, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that partially pitted cherries had been substituted for pitted cherries.

Misbranding was alleged for the reason that the article was labeled, "New York State Products Packed by Webster Canning & Preserving Company, Webster, New York, net weight 6 pounds 9 ounces, Pitted Red Cherries, packed in water", whereas it consisted of partially pitted cherries.

On May 6, 1933, no claimant having appeared for the property, judgment was entered ordering condemnation and forfeiture of the product.

M. L. WILSON, *Acting Secretary of Agriculture.*

21135. Adulteration and misbranding of tomato paste. U. S. v. 8 Cases of Tomato Paste. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 28598. Sample no. 7185-A.)

This action involved a quantity of a product represented to be tomato paste, but which was insufficiently concentrated to be deemed paste.

On August 8, 1932, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the